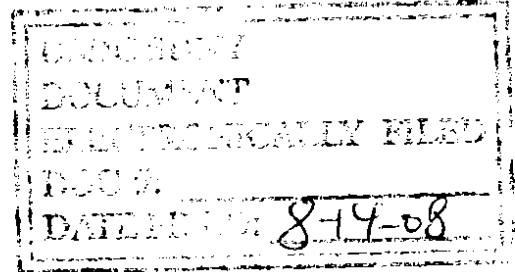


KEENIN, J

Norman C. Kleinberg (NK 2735)  
Theodore V. H. Mayer (TM 9748)  
William J. Beausoleil (WB 5296)  
HUGHES HUBBARD & REED LLP  
One Battery Park Plaza  
New York, New York 10004-1482  
(212) 837-6000

*Attorneys for Defendant Merck & Co., Inc.*



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE: :  
Fosamax Products Liability Litigation : 1:06-md-1789 (JFK)  
:

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*This Document Relates to:* :  
Cecilia Smith, et al. :  
v. Merck & Co., Inc. :  
Case No: 1:07-cv-9484-JFK :  
:

-----X  
**STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs in the above-captioned case and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

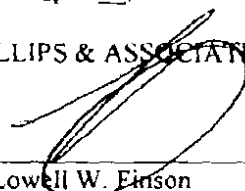
1. This case having been resolved upon the agreement of the above-named Plaintiffs to voluntarily dismiss with prejudice his claim against Merck in the above-captioned case and the agreement of Merck not to seek from Plaintiffs its fees and costs. The following Plaintiffs are hereby dismissed from the above-captioned case with prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii):

Iris Levine and Howard Levine, wife and husband.

2. Each party is to bear its own costs and attorneys' fees.

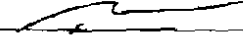
<sup>August 12,</sup>  
Dated: ~~April~~, 2008

PHILLIPS & ASSOCIATES

By   
\_\_\_\_\_  
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(602) 258-8900 ext. 295

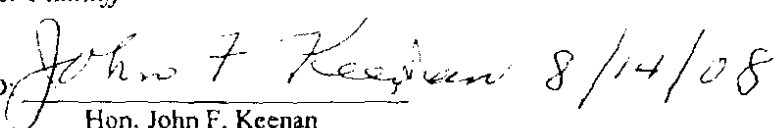
*Attorneys for Plaintiff*

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By   
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New York, New York 10004  
(212) 837-6888

*Attorneys for Defendant Merck & Co, Inc.*

SO ORDERED

  
\_\_\_\_\_  
Hon. John F. Keenan